

## RECORDING AND PERFORMING RIGHTS IN CERTAIN LITERARY WORKS

JULY 4, 1952.—Ordered to be printed

Mr. BRYSON from the committee of conference, submitted the  
following

### CONFERENCE REPORT

[To accompany H. R. 3589]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 3589) to amend title 17 of the United States Code entitled "Copyrights" with respect to recording and performing rights in literary works, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1 and 2.

That the House recede from its disagreement to the amendment of the Senate numbered 3 and agree to the same.

JOSEPH R. BRYSON,  
ROBERT L. RAMSAY,  
SHEPARD J. CRUMPACKER,  
*Managers on the Part of the House.*

WILLIS SMITH,  
ALEXANDER WILEY,  
HERBERT R. O'CONOR,  
JAMES O. EASTLAND,  
HOMER FERGUSON,  
*Managers on the Part of the Senate.*

## STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 3589) to amend title 17 of the United States Code entitled "Copyrights" with respect to recording and performing rights in literary works, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The bill (H. R. 3589) as it passed the House, limited the coverage of performing and recording rights in nondramatic literary works to those made "for profit." The purpose of this limitation was to avoid a holding of infringement by "a teacher reading excerpts from a copyrighted school book in a schoolroom, a minister reading from text in a church, or a speaker at a civic meeting." Amendments Nos. 1 and 2 of the bill (H. R. 3589) as it passed the Senate inserted the word "pecuniary" after the word "for" and before the word "profit" to ensure that the quotation of a portion of a copyrighted poem or literary work or a speech for which no monetary compensation was received would not be deemed an infringement. This result appeared desirable to the House and was intended to be included in the bill passed by the House by means of the words "for profit."

The conferees believe that the objective of the first and second Senate amendments is obtained without the addition of the word "pecuniary" and that the addition of such word may create uncertainties in the law. The concept of "public performance for profit" has been in the copyright law since 1909 and the courts have construed the phrase to mean a material, tangible, commercial profit. The inclusion of the word "pecuniary" might cast doubt upon the phrase "public performance for profit" appearing elsewhere in the law. The use of different language to achieve the same result in the same law appears to be undesirable.

Accordingly, the conferees have agreed to strike out the Senate amendments Nos. 1 and 2 with the understanding that the word "profit" as used in the bill refers only to a pecuniary remuneration.

Senate amendment No. 3 was passed to permit a record company to dispose of certain inventory that would otherwise be covered by the bill. Although a record company would not have had to pay a royalty on records manufactured or sold prior to the effective date of the bill, a royalty would have been payable for records manufactured or sold after the date of enactment. As record companies have large investments in original or master recordings, they might find themselves in the position of having made a large investment and, if they could not obtain a license at a reasonable rate, be unable to make and sell records after the enactment of the bill. To reduce the possibility of loss from such a contingency, the conferees have agreed to accept the Senate amendment No. 3, which moves the effective date of the

bill up to January 1, 1953, and, accordingly, will exclude from coverage of the bill works manufactured or sold prior to January 1, 1953.

The managers on the part of the House believe that the legislation herewith presented to the House should be approved and accordingly they recommend the approval of the instant conference report.

JOSEPH R. BRYSON,  
ROBERT L. RAMSAY,  
SHEPARD J. CRUMPACKER,  
*Managers on the Part of the House.*

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bill up to January 1, 1955, and accordingly will expire on or before  
 at the last day of January, 1955.  
 The provisions of the bill by the House shall be the basis of the legislation  
 passed by the Senate, and the House shall be authorized and empowered  
 to amend the provisions of the bill in any manner.

JOSEPH H. ROYCE,  
 ROBERT J. ROYCE,  
 EDWARD J. ROYCE,  
 Members of the House.